

REMARKS

With this amendment, claims 1-14 and 26-40 are pending in the application. Claims 1 and 26 are the only claims in independent form.

Remarks Directed Towards Claim Rejections **Remarks Directed to Rejection under 35 U.S.C. §112, Second Paragraph**

Claims 1-14 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, claim 1 is cited as lacking antecedent basis for "the contact" and for "the conductor" in lines 7-8. (November 4, 2003 Office Action, page 2).

Applicant has amended claim 1 in order to clarify the claim. Applicant submits that the current claim provides proper antecedent basis for the terms "the contact" and for "the conductor." In view of these remarks and the amendments, it is respectfully requested that the rejection of claim 1 under 35 U.S.C. §112, second paragraph, be withdrawn.

Remarks Directed to Rejection under 35 U.S.C. §102(b)

Claims 1-14 and 26-40 were held to lack novelty under 35 U.S.C. §102(b) as being anticipated by Bonner et al. (U.S. Patent 5,968,086).

In order for the cited reference to have anticipated Applicant's invention, the reference must teach every element of the claim. (MPEP, 8th Ed., revision 1, 2131).

Regarding Claims 1-14 and 26-40

Regarding independent claims 1 and 26, a method of stimulating a region of the heart of a subject as described in these claims includes the limitation that an electrical stimulus is discharged from an intracavitarily disposed electrode of an implanted stimulus generator and "conducted

through the myocardial tissue.” This element of the claims is supported by the specification which describes an inventive method wherein “[u]pon discharge of an electrical stimulus or waveform from the implanted stimulus generator, the stimulus is conducted through the myocardial tissue to the conductor where it is passively conducted to a region of the heart...” (page 3, lines 20-23). In one exemplary embodiment described in the instant specification, the passive conductor “may be placed in the pericardial space,” illustrating that the electrical stimulus discharged from the intracavitarily disposed electrode is conducted through myocardial tissue, in this case the cardiac wall, to the passive conductor. (Page 13, line 2).

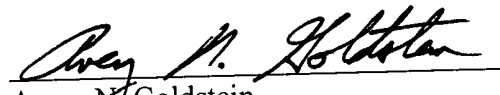
In contrast, Bonner et al. does not appear to teach conduction of a stimulus through myocardial tissue. Applicant has found no statement in Bonner et al. relating to conduction through myocardial tissue to a passive conductor assembly. Thus, the reference does not appear to teach every element of the claim as required in order to properly form a rejection on the basis of anticipation under 35 U.S.C. §102(b). On the basis of these arguments, it is submitted that claims 1 and 26 are not anticipated under 35 U.S.C. §102(b) by Bonner et al. Further, based on Applicant’s belief as to the patentability of independent claims 1 and 26 over Bonner et al., it is submitted that claims 2-14 and 27-40 depending therefrom are likewise allowable. Therefore, it is respectfully requested that the rejection of claims 1-14 and 26-40 as anticipated by Bonner et al. be withdrawn.

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Summary

Claims 1-14 and 26-40 are the pending claims in this application. Each claim is believed to be in proper form and directed to allowable and patentable subject matter. Reconsideration and allowance of the claims is requested.

Respectfully submitted,



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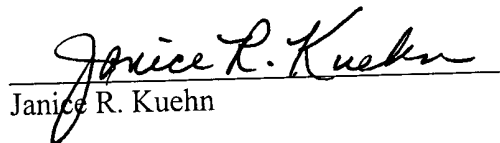
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DATE OF DEPOSIT December 8, 2004

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